REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. No claims have been amended. Claims 35-38 have been added. Support for claims 35-38 can be found in paragraphs [0008] and [0032] of the specification. Claims 3 and 26 have been canceled. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. Thus, claims 1, 2, 5-25, and 28-34 remain pending in the application with claims 11-23 withdrawn from consideration.

Claim Rejections 35 USC § 112

Claims 3 and 26 were rejected under 35 U.S.C. 112, first paragraph, because the specification allegedly does not reasonably provide enablement for "wherein the number of unique signal molecules is equal to the number of nucleotides labeled of the oligonucleotide probe." Claims 3 and 26 have been canceled, rendering this rejection moot. Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 USC § 102

Claims 1-2, 5, 7-9, 24-25, 28, 31, 32, 33 were rejected under 35 U.S.C. 102(b) as being anticipated by Cronin et al (US Patent 6,045,996, issued April 4, 2000). Claims 1, 2, 5-10, 24, 25, 28-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Han et al (Nature Biotechnology (2001) volume 19, paged 631-635). Claims 1-3, 24-26 were rejected under 35 U.S.C. 102(b) as being anticipated by Lockhart (WO97/27317). Applicant respectfully traverses these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Independent claims 1 and 24 explicitly recite "at least one of the labeled probes is identified by *an intensity* of at least one of the unique signal molecules." (Emphasis added). None of the applied references teach identifying labeled probes by the *intensity* of the signal molecule. Cronin teaches the use of hybridization optimizing agents to improve signal resolution. (Col.2 l.11-16). Han teaches a method of DNA sequencing based on detection and identification of single fluorescently labeled mononucleotide molecules degraded from DNA strands in a cone shaped microcapillary. (Abstract). Lockhart teaches a method of identifying difference in nucleic acid abundances by providing an array containing a large number of arbitrarily selected different oligonucleotide probes where the sequence and location of each different probe is known. Differences in the hybridization patterns between samples indicates differences in expression of various genes between those samples. (Abstract). Neither Cronin, Han, nor Lockhart identifying labeled probes by measuring the *intensity* of the signal. Therefore, none of these references anticipate independent claims 1 and 24 or any of the claims that depend on these claims. Applicants respectfully request withdrawal of these rejections.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated:

Respectfully submitted,

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